APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,078	11/15/2001	Kouji Amemiya	VN-0164US	7608

			EXAMINER
28017	7590	01/14/2005	BATES, KEVIN T

RYUKA
1-24-12 SHINJUKU, SIXTH FLOOR
TOSHIN BUILDING, SHINJUKU-KU
TOKYO,   160-0022
JAPAN

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 November 2001*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to. ·

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

    1.☒ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____.

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date *11-18-2001*.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

U.S. Patent and Trademark Office
PTOL-326 (Rev. 1-04)   Office Action Summary   Part of Paper No./Mail Date 01082005

DETAILED ACTION

This Office Action is in response to a communication made on November 15,

2001.

The Declaration was received on November 18, 2001.

The Information Disclosure Statement was received on November 18, 2001.

The Change of Address was received on August 3, 2004.

The Power of Attorney was received on August 3, 2004.

Claims 1-24 are pending in this application.

Information Disclosure Statement

The information disclosure statement filed November 18, 2001 fails to comply

with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the documents have

no translated abstract. It has been placed in the application file, but the information

referred to therein has not been considered as to the merits. Applicant is advised that

the date of any re-submission of any item of information contained in this information

disclosure statement or the submission of any missing element(s) will be the date of

submission for purposes of determining compliance with the requirements based on the

time of filing the statement, including all certification requirements for statements under

37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Objections

Claims 1-24 are objected to because of the following informalities: the unclear

improper numbering of claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 9-24 are rejected under 35 U.S.C. 102(b) as being anticipated by

Dev (5504921).

Regarding claims 1, 17, and 23, Dev discloses a network monitoring apparatus

(Column 2, lines 29 – 34) for monitoring an interconnecting device that interconnects

communication in a computer network (Column 5, lines 2 – 4; 14 – 17), comprising: a

first storage unit having a plurality of notifications stored therein corresponding to each

of a plurality of operations in said interconnecting device (Column 4, lines 54 – 56;

Column 8, lines 60 – 61), respectively; a detection unit that detects each of said

operations in said interconnecting device (Column 4, lines 56 – 61); and a notification

unit that selects one of said notifications stored in said first storage unit based on said

detected operation to notify of said detected operation of said interconnecting device by

said selected notification (Column 7, lines 36 – 42; Column 8, lines 35 – 53).

Regarding claims 2 and 19, Dev discloses that said detection unit detects said

each of said plurality of operations in said interconnecting device at a different interval

(Column 8, lines 54 – 57).

Regarding claim 3 and 18, Dev discloses an interval for detecting whether or not

said interconnecting device is operating is shorter than an interval for detecting

communication traffic in said interconnecting device (Column 6, line 52 – Column 7, line 2).

Regarding claim 4, Dev discloses that said detection unit transmits a detection signal to said interconnecting device and detects said operations of said interconnecting device based on a response signal to said detection signal from said interconnecting device (Column 8, lines 23 – 37).

Regarding claim 5, Dev discloses that a second storage unit for storing an information signal indicating an operation of said interconnecting device (Column 8, lines 8, lines 35 – 53), said information signal being received from said interconnecting device and stored corresponding to a time when said information signal is received (Column 7, lines 43), wherein said detection unit detects said operations of said interconnecting device by referring to said information signal stored in said second storage unit (Column 8, lines 35 – 53).

Regarding claim 6, Dev discloses that said detection unit detects said each of said operations of a plurality of said interconnecting devices at a different interval (Column 8, lines 54 – 57).

Regarding claim 7, Dev discloses that said interconnecting device has a plurality of connection ports to which a plurality of communication devices are respectively connected (Figure 8B; Column 5, lines 10 – 12; lines 31 – 35), and said detection unit detects a communication status of each of said plurality of connection ports in said interconnecting device at a different interval (Column 8, lines 54 – 57).

Regarding claims 9, 20, and 24, Dev discloses a network monitoring apparatus
(Column 2, lines 29 – 34) for monitoring a plurality of communication devices that
communicate in a computer network (Column 5, lines 2 – 4; 14 – 17), comprising: a
detection unit that detects an operation of a predetermined communication device of
said plurality of communication devices (Column 4, lines 56 – 61); a scheduling unit that
schedules a monitoring interval, which is an interval for monitoring said predetermined
communication device (Column 8, lines 23 – 25), based on said operation detected by
said detection unit; and a monitoring unit for monitoring said predetermined
communication device based on said monitoring interval set by said scheduling unit
(Column 6, line 52 – Column 7, line 2).

Regarding claims 10 and 21, Dev discloses that said detection unit detects a type
of said predetermined communication device as said operation of said predetermined
communication device and said scheduling unit schedules said monitoring interval for
said predetermined communication device based on said type of said predetermined
communication device detected by said detection unit (Column 6, line 52 – Column 7,
line 2).

Regarding claim 11, Dev discloses that said scheduling unit schedules said
monitoring interval for a server computer type of said predetermined communication
device to be shorter than said monitoring interval for a client computer type of said
predetermined communication device (Column 8, lines 54 – 57).

Regarding claims 12 and 22, Dev discloses that said detection unit detects
communication traffic of said predetermined communication device as said operation of

said predetermined communication device and said scheduling unit schedules said monitoring interval for said predetermined communication device based on said communication traffic detected by said detection unit (Column 6, line 65 – Column 7, line 2).

Regarding claim 13, Dev discloses that said predetermined communication device has a plurality of connection ports to which a plurality of communication devices are respectively connected, and said scheduling unit schedules a monitoring interval, which is a corresponding interval for monitoring a communication status of each of said plurality of connection ports of said predetermined communication device, respectively (Figure 8B; Column 5, lines 10 – 12; lines 31 – 35).

Regarding claim 14, Dev discloses that said detection unit detects a corresponding communication device type connected to each of said plurality of connection ports, respectively, as said operation of said predetermined communication device, and said scheduling unit respectively schedules said monitoring interval of each of said plurality of connection ports based on said corresponding communication device type detected by said detection unit (Column 8, lines 54 – 56).

Regarding claim 15, Dev discloses that said scheduling unit schedules said monitoring interval for a first connection port to which a server computer is connected to be shorter than said monitoring interval for a second connection port to which a client computer is connected (Column 8, lines 54 – 56).

Regarding claim 16, Dev discloses that said detection unit detects respective communication traffic for each of said plurality of connection ports and said scheduling

unit respectively schedules said monitoring interval for each of said plurality of

connection ports based on said communication traffic detected by said detection unit

(Column 6, line 65 – Column 7, line 2; Column 1, lines 28 – 37).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Div in

view of Liang (6738811).

Regarding claim 8, Dev does not explicitly indicate that said notification unit

transmits an e-mail to a predetermined e-mail address as said selected one of said

notifications to notify of said detected operation of said interconnecting device. Liang

teaches a network monitoring system that alerts users on alarms and events using

email notification (Column 5, lines 33 – 39; Column 7, lines 53 – 56). It would have

been obvious to one of ordinary skill in the art at the time the invention was made to use

Liang's teachings of email notification on Dev's monitoring system in order to notify the

users that actually maintain and treat the network device, not just the administrator

working the monitoring system (Column 7, lines 53 – 62).

Prior Art

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

U. S. Patent No. 6108782 issued to Fletcher, because it discloses monitoring interconnecting devices with a plurality of ports.

U. S. Patent No. 6363056 issued to Beigi, because it discloses monitoring interconnecting devices and communication traffic.

U. S. Patent No. 6714977 issued to Fowler, because it discloses monitoring network devices at different intervals.

U. S. Patent No. 6237114 issued to Wookey, becaue it discloses monitoring a network and having notifications to users.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Bates whose telephone number is (571) 272-3980. The examiner can normally be reached on 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

KB

KB
January 8, 2005

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER